

ESTTA Tracking number: **ESTTA477637**

Filing date: **06/12/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Hexcel Corporation
Granted to Date of previous extension	06/13/2012
Address	11711 Dublin Boulevard Dublin, CA 94568 UNITED STATES
Correspondence information	Francie R. Gorowitz Attorney Rosenfeld, Meyer & Susman, LLP 9601 Wilshire Blvd. Suite 710 Beverly Hills, CA 90210 UNITED STATES fgorowitz@rmslaw.com, trademark@rmslaw.com Phone:310 246-3205

Applicant Information

Application No	85407125	Publication date	02/14/2012
Opposition Filing Date	06/12/2012	Opposition Period Ends	06/13/2012
Applicant	body Tech Laboratories,LLC 568 Franklin Ave Franklin Lakes, NJ 07417 UNITED STATES		

Goods/Services Affected by Opposition

Class 010. First Use: 2009/02/24 First Use In Commerce: 2009/04/20
All goods and services in the class are opposed, namely: Arch supports for boots or shoes


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

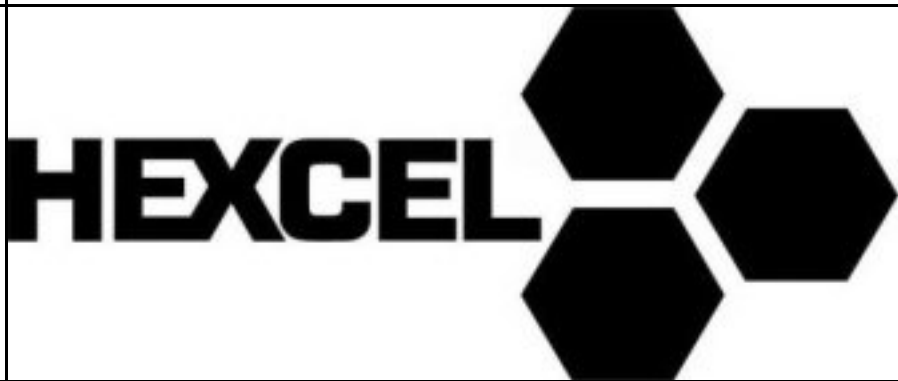
U.S. Registration No.	1373213	Application Date	03/18/1985
Registration Date	12/03/1985	Foreign Priority Date	NONE
Word Mark	HEXCEL		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 001. First use: First Use: 1968/00/00 First Use In Commerce: 1968/00/00 CHEMICAL PRODUCTS FOR USE BY INDUSTRY, NAMELY RESINS, PLASTICS IN THE FORM OF POWDERS, LIQUIDS AND PASTES, ADHESIVES, AND CHEMICALS FOR USE IN MANUFACTURE OF INDUSTRIAL CLEANERS AND PHARMACEUTICAL AND COSMETIC PRODUCTS</p> <p>Class 017. First use: First Use: 1968/00/00 First Use In Commerce: 1968/00/00 CAULKING, JOINT SEALING AND ENCAPSULATING COMPOUNDS</p>

U.S. Registration No.	2671601	Application Date	10/04/2001
Registration Date	01/07/2003	Foreign Priority Date	NONE
Word Mark	HEXCEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 022. First use: First Use: 1996/07/15 First Use In Commerce: 1996/07/15 Carbon fibers for use in manufacture, for textile use and for structural reinforcement</p> <p>Class 024. First use: First Use: 1991/09/24 First Use In Commerce: 1991/09/24 Protective fabrics used in the manufacture of goods, namely armored vehicles, blast containers, bullet-proof vests, clothing and protective walls; fiberglass fabrics for window blinds and solar protection; and fiberglass, carbon and aramid reinforcement textiles for use in the commercial aerospace, space and defense, recreation, electrical, architectural, transportation, marine, and general industrial fields</p>		

U.S. Registration No.	2734006	Application Date	12/14/2001
Registration Date	07/08/2003	Foreign Priority Date	NONE
Word Mark	HEXCEL		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 006. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 Metallic cellular core material and metallic sandwich panels for use in manufacturing aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial products</p> <p>Class 012. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 Composite sandwich panels, structural parts and interiors of trains, boats, aircraft and road vehicles</p> <p>Class 017. First use: First Use: 1970/05/01 First Use In Commerce: 1970/05/01 Continuous or discontinuous fiber reinforced molding materials in the form of tape, fabric, non-woven, mat, tow or roving fully or partially impregnated with a thermoset, thermoplastic or other matrix material for use as a composite material in manufacturing aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial projects; non-metallic honeycomb for use in structural reinforcement, and aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial projects</p>

U.S. Registration No.	3157655	Application Date	10/10/2005
Registration Date	10/17/2006	Foreign Priority Date	NONE
Word Mark	HEXCEL		
Design Mark			
Description of Mark	The mark consists of the word "HEXCEL" positioned to the left of three hexagon designs.		
Goods/Services	<p>Class 001. First use: First Use: 1971/12/00 First Use In Commerce: 1971/12/00 Synthetic resins and adhesives used in the manufacture of composite materials for aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial products</p>		

Attachments	76321379#TMSN.gif (1 page)(bytes) 76349442#TMSN.gif (1 page)(bytes) 78729937#TMSN.jpeg (1 page)(bytes) HEXCEL- BODY TECH - Not. of Opp.pdf (19 pages)(632660 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Francie R. Gorowitz/
Name	Francie R. Gorowitz
Date	06/12/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IN THE MATTER OF APPLICATION SERIAL NO. 85407125
Published for Opposition in the Official Gazette of February 14, 2012

HEXCEL CORPORATION,)	OPPOSITION NO.
)	
Opposer,)	
)	
vs.)	
)	
BODY TECH LABORATORIES, LLC)	
AKA BODY TECH LABS)	
)	
)	
<hr/>		
Applicant.		

Hexcel Corporation, a Delaware corporation, located at Two Stamford Plaza, 281 Tressor Blvd., 16th Floor, Stamford, Connecticut ("Hexcel"), believes that it will be damaged by registration of the mark HEXCEL ARCH SUPPORT, which is the subject of the above Application (Serial No. 85407125) for the mark HEXCEL ARCH SUPPORT in International Class 10, and hereby opposes such registration. The time for filing a Notice of Opposition was extended to June 13, 2012 and thus this Notice is timely.

As grounds for opposition, it is alleged that:

1. Hexcel manufactures and sells advanced structural materials, including composite materials such as honeycomb, prepregs, film adhesives, sandwich panels, and structural fabrics, which are used as components of other products in the recreation, commercial aerospace, space and defense, electrical, architectural, transportation, marine and general industrial fields.

2. Hexcel has continuously used Hexcel as both its trade name and its trademark since 1950.
3. Hexcel is the owner of incontestable Reg. No. 1373213 for the mark Hexcel for “chemical products for use by industry, namely resins, plastics in the form of powders, liquids and pastes, adhesives, and chemicals for use in manufacture of industrial cleaners and pharmaceutical and cosmetic products” in Class 1 and “caulking, joint sealing and encapsulating compounds” in Class 17, which issued on December 3, 1985 and is in full force and effect. A current title and status copy of the registration from the TARR database is attached hereto and made of record herein.
4. Hexcel is the owner of incontestable Reg. No. 2671601 for the mark



for “carbon fibers for use in manufacture, for textile use and for structural reinforcement” in Class 22 and “protective fabrics used in the manufacture of goods, namely armored vehicles, blast containers, bullet-proof vests, clothing and protective walls; fiberglass fabrics for window blinds and solar protection; and fiberglass, carbon and aramid reinforcement textiles for use in the commercial aerospace, space and defense, recreation, electrical, architectural, transportation, marine, and general industrial fields” in Class 24, which issued on October 4, 2001 and is in full force and effect. A current title and status copy of

the registration from the TARR database is attached hereto and made of record herein.

5. Hexcel is the owner of incontestable Reg. No. 2734006 for the mark



for “metallic cellular core material and metallic sandwich panels for use in manufacturing aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial products” in Class 6; “composite sandwich panels, structural parts and interiors of trains, boats, aircraft and road vehicles” in Class 12 and “continuous or discontinuous fiber reinforced molding materials in the form of tape, fabric, non-woven, mat, tow or roving fully or partially impregnated with a thermoset, thermoplastic or other matrix material for use as a composite material in manufacturing aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial projects; non-metallic honeycomb for use in structural reinforcement, and aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial projects” in Class 17, which issued on July 8, 2003 and is in full force and effect. A current title and status copy of the registration from the TARR database is attached hereto and made of record herein.

6. Hexcel is the owner of incontestable Reg. No. 3157655 for the mark



- for “synthetic resins and adhesives used in the manufacture of composite materials for aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial products” in Class 1, which issued on October 17, 2006 and is in full force and effect. A current title and status copy of the registration from the TARR database is attached hereto and made of record herein.
7. Hexcel’s composite materials have been used in the manufacture of a variety of other products, including soles of shoes and golf clubs.
8. Body Tech Laboratories, LLC (“Body Tech”) is the owner of Application Serial No. 85407125 for the mark HEXCEL ARCH SUPPORT for “arch supports for boots or shoes,” which was filed on August 25, 2011 and in which Body Tech asserts a date of first use anywhere of February 24, 2009 and a date of first use in commerce of April 20, 2009.
9. The generic term “ARCH SUPPORT” is disclaimed in Application Serial No. 85407125 (“Body Tech’s Application”).
10. On information and belief Body Tech did not use the mark HEXCEL ARCH SUPPORT for arch supports prior to February 24, 2009.
11. Hexcel has prior rights in its HEXCEL mark and Hexcel trade name.

12. Hexcel's goods have been and can be used as component parts of footwear, which is closely related to Body Tech's arch supports for shoes and boots.

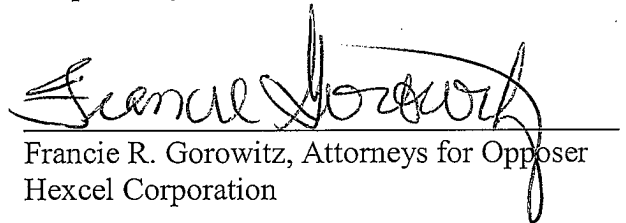
13. The dominant portion of Body Tech's mark is the term HEXCEL, which is identical to Hexcel's mark and trade name.

14. Body Tech's use and registration of the mark HEXCEL ARCH SUPPORT for "arch supports for shoes and boots" is likely to cause confusion, mistake or deception and is also likely to create the erroneous impression that Hexcel and Body Tech are somehow related or associated, or that Hexcel sponsors or approves Body Tech's goods.

WHEREFORE, Hexcel requests that registration of Body Tech's mark HEXCEL ARCH SUPPORT be denied and that this Opposition be sustained.

Dated: June 12, 2012

Respectfully submitted,



Francie R. Gorowitz, Attorneys for Opposer
Hexcel Corporation

Rosenfeld, Meyer & Susman, LLP
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Beverly Hills, CA 90210
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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-06-12 17:05:29 ET

Serial Number: 73527619 Assignment Information Trademark Document Retrieval

Registration Number: 1373213

Mark (words only): HEXCEL

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2005-12-03

Filing Date: 1985-03-18

Transformed into a National Application: No

Registration Date: 1985-12-03

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2008-05-30

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. HEXCEL CORPORATION

Address:

HEXCEL CORPORATION
11555 DUBLIN BOULEVARD
DUBLIN, CA 94568
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001**Class Status:** Active

CHEMICAL PRODUCTS FOR USE BY INDUSTRY, NAMELY RESINS, PLASTICS IN THE FORM OF POWDERS, LIQUIDS AND PASTES, ADHESIVES, AND CHEMICALS FOR USE IN MANUFACTURE OF INDUSTRIAL CLEANERS AND PHARMACEUTICAL AND COSMETIC PRODUCTS

Basis: 1(a)**First Use Date:** 1968-00-00**First Use in Commerce Date:** 1968-00-00**International Class: 017****Class Status:** Active

CAULKING, JOINT SEALING AND ENCAPSULATING COMPOUNDS

Basis: 1(a)**First Use Date:** 1968-00-00**First Use in Commerce Date:** 1968-00-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

556247

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-05-27 - Assignment Of Ownership Not Updated Automatically

2008-05-30 - Case File In TICRS

2005-12-03 - First renewal 10 year

2005-12-03 - Section 8 (10-year) accepted/ Section 9 granted

2005-10-24 - Assigned To Paralegal

2005-09-15 - Combined Section 8 (10-year)/Section 9 filed

2005-09-15 - PAPER RECEIVED

1991-11-04 - Post Registration action correction

1991-07-10 - Section 8 (6-year) accepted & Section 15 acknowledged

1991-03-11 - Section 8 (6-year) and Section 15 Filed
1985-12-03 - Registered - Principal Register
1985-09-24 - Published for opposition
1985-08-25 - Notice of publication
1985-08-06 - Approved for Pub - Principal Register (Initial exam)
1985-07-08 - Communication received from applicant
1985-05-16 - Non-final action mailed
1985-05-10 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

RONALD E. SHAPIRO

Correspondent

RONALD E. SHAPIRO
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-06-12 17:15:04 ET

Serial Number: 76321379 Assignment Information Trademark Document Retrieval

Registration Number: 2671601

Mark



(words only): HEXCEL

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2008-10-27

Filing Date: 2001-10-04

Transformed into a National Application: No

Registration Date: 2003-01-07

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-10-27

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Hexcel Corporation

Address:

Hexcel Corporation
11711 Dublin Blvd
Dublin, CA 94568
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 022

Class Status: Active

Carbon fibers for use in manufacture, for textile use and for structural reinforcement

Basis: 1(a)

First Use Date: 1996-07-15

First Use in Commerce Date: 1996-07-15

International Class: 024

Class Status: Active

Protective fabrics used in the manufacture of goods, namely armored vehicles, blast containers, bullet-proof vests, clothing and protective walls; fiberglass fabrics for window blinds and solar protection; and fiberglass, carbon and aramid reinforcement textiles for use in the commercial aerospace, space and defense, recreation, electrical, architectural, transportation, marine, and general industrial fields

Basis: 1(a)

First Use Date: 1991-09-24

First Use in Commerce Date: 1991-09-24

ADDITIONAL INFORMATION

Design Search Code(s):

26.15.13 - More than one polygon

26.15.21 - Polygons that are completely or partially shaded

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-05-27 - Assignment Of Ownership Not Updated Automatically

2008-10-27 - Section 8 (6-year) accepted & Section 15 acknowledged

2008-10-03 - Assigned To Paralegal

2008-09-30 - TEAS Section 8 & 15 Received
2008-05-29 - Case File In TICSRS
2003-01-07 - Registered - Principal Register
2002-10-15 - Published for opposition
2002-09-25 - Notice of publication
2002-07-15 - Approved for Pub - Principal Register (Initial exam)
2002-06-17 - Communication received from applicant
2002-06-17 - PAPER RECEIVED
2001-12-17 - Non-final action mailed
2001-11-30 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Correspondent

Ronald E. Shapiro
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1751 Pinnacle Drive
McLean VA 22102-3833
Phone Number: (703) 610-8694
Fax Number: (703) 610-8686

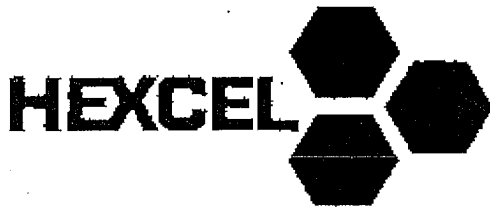
Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-06-12 17:17:09 ET

Serial Number: 76349442 Assignment Information Trademark Document Retrieval

Registration Number: 2734006

Mark



(words only): HEXCEL

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2009-01-13

Filing Date: 2001-12-14

Transformed into a National Application: No

Registration Date: 2003-07-08

Register: Principal

Law Office Assigned: LAW OFFICE 110

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2009-01-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Hexcel Corporation

Address:

Hexcel Corporation
11711 Dublin Blvd.
Dublin, CA 94568
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 006

Class Status: Active

Metallic cellular core material and metallic sandwich panels for use in manufacturing aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial products

Basis: 1(a)

First Use Date: 1982-00-00

First Use in Commerce Date: 1982-00-00

International Class: 012

Class Status: Active

Composite sandwich panels, structural parts and interiors of trains, boats, aircraft and road vehicles

Basis: 1(a)

First Use Date: 1982-00-00

First Use in Commerce Date: 1982-00-00

International Class: 017

Class Status: Active

Continuous or discontinuous fiber reinforced molding materials in the form of tape, fabric, non-woven, mat, tow or roving fully or partially impregnated with a thermoset, thermoplastic or other matrix material for use as a composite material in manufacturing aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial projects; non-metallic honeycomb for use in structural reinforcement, and aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial projects

Basis: 1(a)

First Use Date: 1970-05-01

First Use in Commerce Date: 1970-05-01

ADDITIONAL INFORMATION

Design Search Code(s):

26.15.13 - More than one polygon

26.15.21 - Polygons that are completely or partially shaded

Prior Registration Number(s):

556247

920514

1373213

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-05-27 - Assignment Of Ownership Not Updated Automatically

2009-01-13 - Section 8 (6-year) accepted & Section 15 acknowledged

2009-01-07 - Assigned To Paralegal

2009-01-05 - TEAS Section 8 & 15 Received

2008-06-24 - Case File In TICRS

2003-07-08 - Registered - Principal Register

2003-04-15 - Published for opposition

2003-03-26 - Notice of publication

2003-02-10 - Approved for Pub - Principal Register (Initial exam)

2003-01-16 - Communication received from applicant

2003-01-16 - PAPER RECEIVED

2002-10-15 - Non-final action mailed

2002-09-09 - Communication received from applicant

2002-09-09 - PAPER RECEIVED

2002-03-11 - Non-final action mailed

2002-03-07 - Assigned To Examiner

2002-03-01 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Ronald E. Shapiro

Correspondent

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1751 PINNACLE DRIVE
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Phone Number: (703) 610-8694
Fax Number: (703) 610-8686

Thank you for your request. Here are the latest results from the TARR web server.

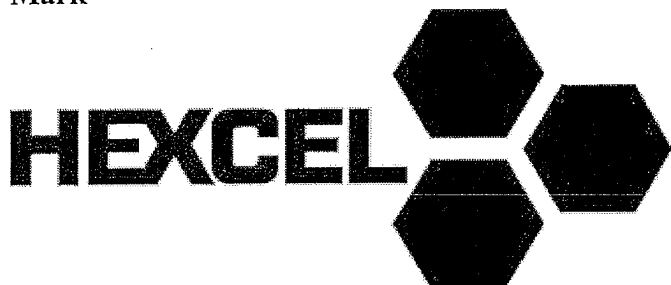
This page was generated by the TARR system on 2012-06-12 17:22:15 ET

Serial Number: 78729937 Assignment Information

Trademark Document Retrieval

Registration Number: 3157655

Mark



(words only): HEXCEL

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2011-11-30

Filing Date: 2005-10-10

Transformed into a National Application: No

Registration Date: 2006-10-17

Register: Principal

Law Office Assigned: LAW OFFICE 105

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: L50 -TMEG Law Office 105

Date In Location: 2011-11-30

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Hexcel Corporation

Address:

Hexcel Corporation
11711 Dublin Blvd.
Dublin, CA 94568
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Synthetic resins and adhesives used in the manufacture of composite materials for aerospace, space and defense, recreation, electrical, architectural, marine, transportation and general industrial products

Basis: 1(a)

First Use Date: 1971-12-00

First Use in Commerce Date: 1971-12-00

ADDITIONAL INFORMATION

Description of Mark: The mark consists of the word "HEXCEL" positioned to the left of three hexagon designs.

Design Search Code(s):

26.15.13 - More than one polygon

26.15.21 - Polygons that are completely or partially shaded

Prior Registration Number(s):

1373213

1387923

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-11-30 - Notice Of Acceptance Of Sec. 8 & 15 - E-Mailed

2011-11-30 - Section 8 (6-year) accepted & Section 15 acknowledged

2011-11-30 - Case Assigned To Post Registration Paralegal

2011-10-20 - TEAS Section 8 & 15 Received

2010-01-15 - TEAS Change Of Correspondence Received
2010-01-15 - TEAS Change Of Correspondence Received
2010-01-12 - TEAS Change Of Correspondence Received
2009-05-27 - Assignment Of Ownership Not Updated Automatically
2007-03-07 - Assignment Of Ownership Not Updated Automatically
2006-10-17 - Registered - Principal Register
2006-08-01 - Published for opposition
2006-07-12 - Notice of publication
2006-06-16 - Law Office Publication Review Completed
2006-06-02 - Assigned To LIE
2006-05-31 - Approved for Pub - Principal Register (Initial exam)
2006-05-20 - Amendment From Applicant Entered
2006-05-01 - Communication received from applicant
2006-05-01 - TEAS Response to Office Action Received
2006-04-19 - Non-final action mailed
2006-04-19 - Non-Final Action Written
2006-04-13 - Assigned To Examiner
2005-10-14 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Francie R. Gorowitz

Correspondent

Francie R. Gorowitz

ROSENFELD, MEYER & SUSMAN, LLP

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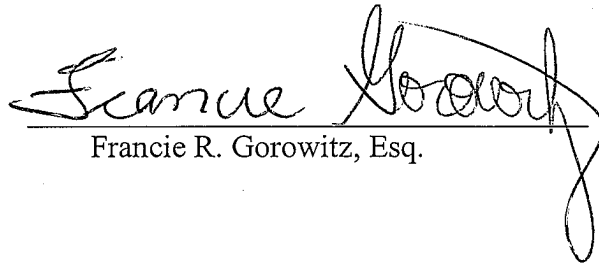
BEVERLY HILLS CA 90210

Phone Number: 310 246-3205

Fax Number: 310 860-2405

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, NOTICE OF OPPOSITION and exhibits thereto, were served by depositing them with the United States Postal Service as first class mail in an envelope addressed to: Body Tech Laboratories, LLC, 568 Franklin Ave., Franklin Lakes, New Jersey 07417 on June 12, 2012


Francie R. Gorowitz, Esq.